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May 16, 2018

The Honorable James A. Parker,
Senior United States District Court Judge
United States District Court
421 Gold Ave. S.W., 6th Floor
Albuquerque, New Mexico 87102

Re: *United States v. Lindsey Cavazos*, 15-cr-04087-JAP

Dear Judge Parker:

During the sentencing hearing on May 9, 2018, you requested that the parties locate a case in which a district court departed or varied downward from a Guidelines sentencing range of 97-121 months (or greater) to probation. Below is a list of such cases. As these cases demonstrate, the departure/variance to which the parties have agreed in Ms. Cavazos's case is not unprecedented. And for the reasons set forth in the parties' sentencing memoranda, a sentence of probation is sufficient, but not greater than necessary to satisfy the purposes of sentencing, as set forth in 18 U.S.C. § 3553.

United States v. Cole, 765 F.3d 884 (8th Cir. 2014) (upholding probationary sentence where advisory guideline range was 135-168 months)

United States v. Bueno, 549 F.3d 1176 (8th Cir. 2008) (upholding probationary sentence where advisory guideline range was 108-135 months)

United States v. Barnette, 4:16 CR 00023-HLM (N.D. Ga.) (imposing probationary sentence where advisory guideline range was 110-137months)¹

United States v. Sam Spears, 2:14-cr-00078-LA-11 (E.D. Wis.) (imposing probationary sentence where advisory guideline range was 151-188 months)

¹ For unpublished cases, undersigned counsel has copies of sentencing documents reflecting both the advisory guideline range and the sentence imposed. We are happy to produce those documents at the Court's request.

The Honorable James A. Parker,
Senior United States District Court Judge

Page 2

United States v. Brewer, 978 F.Supp.2d 710 (W.D. Tex 2013) (imposing probationary sentence where advisory guideline range was 108-135 months)

United States v. Seiber, 2005 WL 1801614 (E.D. Tenn. July 29, 2005) (imposing probationary sentence where advisory guideline range was 97-121 months)

United States v. Harrison, 815 F. Supp. 494 (D.D.C. 1993) (imposing probationary sentence where advisory guideline range was 97-121 months)

I have also spoken with an expert in sentencing statistics, who informed me that additional cases exist, including cases within the Tenth Circuit, in which a district court has departed or varied from a guidelines range of 97-121 months to a probationary sentence.² Unfortunately, the Sentencing Commission does not provide the case names underlying its data and these cases are not reported so I could not provide the Court with an exhaustive list.

I hope we have answered the Court's question.

Respectfully,

/s/ *Theresa M. Duncan*

Theresa M. Duncan, Esq.
Attorney for Lindsey Cavazos

² We are happy to provide a copy of the research at the Court's request.